



FEBRUARY 2002.....PREPARED BY THE RSC STAFF

## THE CONSTITUTIONAL AUTHORITY TO ENACT LEGISLATION

In 1997, the Republican majority proposed several changes to the Rules of the House of Representatives. Among the proposals was a rule to require each report accompanying a public bill or public joint resolution to include a statement by the Committee specifying the authority provided in the Constitution for the Congress to enact the proposed bill. Some Committees comply with this requirement by actually specifying the enumerated power(s). Other Committees often only reference the general powers of Congress rather than actually specifying the authority.

The Republican Study Committee routinely reports this section of the Committee Report in the Legislative Bulletins analyzing legislation scheduled for consideration in the House.

Below is the relevant portion of the Rules of the House and an example of its implementation in a Committee report:

**RULES**  
*of the*  
**HOUSE OF REPRESENTATIVES**  
**ONE HUNDRED SEVENTH CONGRESS**

**RULE XIII**  
**CALENDARS AND COMMITTEE REPORT**

\*\*\*

*Content of reports*

- 3(d) Each report of a committee on a public bill or public joint resolution shall contain the following:
- (1) A statement citing the specific powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution.

\*\*\*

ECONOMIC SECURITY AND RECOVERY ACT OF 2001

OCTOBER 17, 2001.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. THOMAS, from the Committee on Ways and Means,  
submitted the following

REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 3090]

\*\*\*

**CONSTITUTIONAL AUTHORITY STATEMENT**

With respect to clause 3(d)(1) of the rule XIII of the Rules of the House of Representatives (relating to Constitutional Authority), the Committee states that the Committee’s action in reporting this bill is derived from Article I of the Constitution, Section 8 (“The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises \*\*\*”), and from the 16th Amendment to the Constitution.

## The Specific Powers of Congress

The Constitution enumerates the following Congressional powers:

### Scope of Congressional Powers:

All legislative powers herein granted shall be vested in a Congress of the United States.	Article 1, section 1.
The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.	Tenth Amendment.
The Congress shall have Power . . . To make all laws which shall be necessary and proper for carrying into Execution the foregoing Powers and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.	Article I, section 8, cl. 18.
Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.	Article I, section 5, cl. 2.

### **Power to Tax and Spend:**

The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States.	Article I, section 8, cl. 1.
No Capitation, or other direct Tax shall be laid, unless in Proportion to the Census of Enumeration	Article I, section 9, cl. 4.
The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.	Sixteenth Amendment.
The Congress shall have Power . . . To borrow Money on the credit of the United States.	Article I, section 8, cl. 2.
No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law.	Article I, section 9, cl. 7.

### **Commercial Powers:**

To regulate commerce with foreign Nations, and among the several States, and with the Indian Tribes.	Article I, section 8, cl. 3.
To establish ... uniform Laws on the subject of Bankruptcies throughout the United States.	Article I, section 8, cl. 4.
To coin money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures.	Article I, section 8 cl. 5.
To provide for the Punishment of counterfeiting the Securities and current Coin of the United States.	Article I, section 8, cl. 6.
To establish Post Offices and post Roads.	Article I, section 8, cl. 7.
To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.	Article I, section 8, cl. 8.

### **Citizenship and Civil Rights:**

The Congress shall have power . . . To establish an uniform Rule of Naturalization.	Article I, section 8, cl. 4.
All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. . . . The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.	Fourteenth Amendment, section 1 and 5.
Neither slavery nor involuntary servitude, except as punishment for crime . . . , shall exist within the United States or any place subject to their jurisdiction. Congress shall have power to enforce, by appropriate legislation, the provisions of this article	Thirteenth Amendment.

## Voting and Elections:

The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.	Article I, section 4, cl. 1.
Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members.	Article I, section 5, cl. 1.
The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.	Article II, section 1, cl. 4.
The District constituting the seat of Government of the United States shall appoint in such manner as the Congress may direct: A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State . . . . The Congress shall have power to enforce this article by appropriate legislation.	Twenty-third Amendment.
The actual enumeration shall be made . . . in such manner as they [Congress] shall by law direct.	Article I, section 2, cl. 3.
. . . Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected . . . .	Twentieth Amendment, section 3.
The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.	Twentieth Amendment, section 4.
Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the president pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.	Twenty-fifth Amendment, section 4.
The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or by any State by reason of failure to pay any poll tax or other tax. The Congress shall have power to enforce this article by appropriate legislation.	Twenty-fourth Amendment.

The right of the citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude. The Congress shall have power to enforce this article by appropriate legislation.	Fifteenth Amendment.
The right of the citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex. Congress shall have power to enforce this article by appropriate legislation.	Nineteenth Amendment.
The right of the citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age. The Congress shall have power to enforce this article by appropriate legislation.	Twenty-sixth Amendment.

### **Federal Property and Territory:**

The Congress shall have power . . . To exercise exclusive Legislation in all Cases whatsoever, over such District . . . as may, by Cession of Particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards and other needful Buildings.	Article I, section 8, cl. 17.
The Congress shall have power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States. . . .	Article IV, section 3, cl. 2.

### **War and Related Powers:**

To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations.	Article I, section 8, cl. 10.
To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water.	Article I, section 8, cl. 11.
To raise and support Armies, but no Appropriation of money to that Use shall be for a longer Term than two Years.	Article I, section 8, cl. 12.
To provide and maintain a Navy.	Article I, section 8, cl. 13.
To make rules for the Government and Regulation of the land and naval Forces.	Article I, section 8, cl. 14.
To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repeal Invasions.	Article I, section 8, cl. 15.
To provide for arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress.	Article I, section 8, cl. 16.
The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.	Article III, section 3, cl. 2.

No State shall, without the consent of Congress . . . engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.	Article I, section 10, cl. 3.
--	-------------------------------

### **Relations with States:**

No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing it's inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Control of the Congress.	Article I, section 10, cl. 2.
No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War unless actually invaded, or inn such imminent Danger as will not admit of delay.	Article I, section 10, cl. 3.
Full Faith and Credit shall be given in each State to the public Acts, Records, and Judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records, and Proceedings shall be proved, and the Effect thereof.	Article IV, section 1.
New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.	Article IV, section 3.

### **Executive Relations:**

The House of Representatives . . . shall have the sole power of Impeachment.	Article I, section 2, cl. 5.
The Senate shall have the sole Power to try all Impeachments. . . . And no person shall be convicted without the Concurrence of two thirds of the Members present.	Article I, section 3, cl. 6.
. . . [N]o Person holding any Office of Profit or Trust under [the United States] shall, without the consent of Congress, accept any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince or foreign State.	Article I, section 9, cl. 8.
[The President] shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur . . . .	Article II, section 2.

[The President] shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.	Article II, section 2.
---	------------------------

### **Judicial Branch:**

The Congress shall have Power . . . To constitute Tribunals inferior to the supreme Court.	Article I, section 8, cl. 9.
In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be a Party, the supreme Court shall have original Jurisdiction In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.	Article III, section 2, cl. 2.
The Trial of all Crimes . . . shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.	Article III, section 2, cl. 3.

---